

BOARD OF APPEALS CASE NO. 4936

BEFORE THE

APPLICANTS: George & Linda Seybold

ZONING HEARING EXAMINER

REQUEST: Special Exception to operate
a motor vehicle repair shop and commercial
vehicle and equipment storage in the AG
District; 3362 Level Road, Churchville

OF HARFORD COUNTY

Hearing Advertised

Aegis: 6/23/99 & 6/30/99

Record: 6/25/99 & 7/2/99

HEARING DATE: August 11, 1999

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ZONING HEARING EXAMINER'S DECISION

The Applicants, George & Linda Seybold filed an application requesting a Special Exception to Sections 267-53(D)(1) and (3) of the Harford County Code, to operate a motor vehicle repair shop and commercial vehicle and equipment storage and farm vehicle equipment sales and service in the AG District.

The subject parcel is located at 3362 Level Road in the Second Election District. The parcel is identified as Parcel No. 143, in Grid 4-C, on Tax Map 36. The parcel contains 48.34 acres, more or less, all of which is zoned Agricultural.

Mr. L. Gerald Wolff appeared and qualified as an expert in the field of land survey. Mr. Wolff said that he was familiar with the property and prepared a site plan at the request of the Applicants. Mr. Wolff testified regarding the location of the subject property, as well as surrounding uses. He said there are no adjacent residential lots, and that the use proposed by the Applicant is less intense than some of the other uses allowed in the Agricultural District. Mr. Wolff went on to explain that the proposed use would not have a greater impact on the subject property than if located elsewhere in the Agricultural District.

Ms. Linda Seybold appeared and testified that she is one of the owners of the subject parcel and that she lives on the parcel and trains horses. The witness said that her son will operate the proposed business on the parcel.

Mr. Mark Seybold appeared and testified that if the Special Exceptions are granted, he intends to operate a body and fender shop on the subject property and that he currently has 3 employees in the business.

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Mr. Anthony S. McClune, Manager, Division of Land Use Management of the Department of Planning and Zoning, appeared and testified that the Staff has reviewed the application, as well as the "Limitations, Guides and Standards" set forth in Section 267-9(I) of the Code. Mr. McClune said that approval of the Special Exceptions on the subject parcel would not have any greater impact than if approved elsewhere in the zoning district and also that he felt the Applicant could comply with all the "Limitations, Guides and Standards" set forth in the Code. The witness said that the Staff recommended conditional approval of the Applicant's request.

CONCLUSION:

The Applicants are requesting Special Exceptions to Section 267-53(D)(1) and (3) of the Harford County Code, to operate a motor vehicle repair shop and commercial vehicles and equipment storage and farm vehicle equipment sales and service.

Section 267-53(D)(1) provides:

"Commercial vehicle and equipment storage and farm vehicle and equipment sales and service. These uses may be granted in the AG District, and commercial vehicle and equipment storage may be granted in the VB District, provided that:

- (a) The vehicles and equipment are stored entirely within an enclosed building or are fully screened from view of adjacent residential lots and public roads.
- (b) The sales and service of construction and industrial equipment may be permitted as an accessory use incidental to the sales and service of farm vehicles and equipment.
- (c) A minimum parcel area of two (2) acres shall be provided."

Section 267-53(D)(3) provides:

"Motor vehicle repair shops. These uses may be granted in the AG and B1 Districts, provided that:

- (a) A buffer yard at least 10 feet wide shall be provided along any adjacent road right-of-way or adjacent residential lot.
- (b) The requirements of § 267-39(C)(7) of this chapter for service stations and repair shops in the B2 and B3 Districts shall be met.

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- (c) Unless Board approval is granted, accessory buildings and outdoor storage of vehicles, tires, and equipment shall be prohibited.**
- (d) The operator of the shop shall maintain a log of all vehicles repaired. For each vehicle, the log shall include the vehicle identification number and a description of the vehicle and identify the dates the vehicle arrived and was removed. The log shall be available for inspection during normal business hours. If no log exists, it shall be assumed for the purposes of § 267-39(C)(7)(f) that each vehicle has been stored on the property for 90 days.**
- (e) The rental or storage of trailers, boats, and trucks shall be prohibited.**
- (f) Proposed outdoor storage areas and refuse storage areas shall be fenced or screened from adjacent properties and shown on the site plan submitted for Board approval.**
- (g) Materials, textures, colors and designs of fences, walls, and screening shall be compatible with the on-site development, adjacent properties, and the neighborhood. When a wall is required, a planting strip at least 5 feet wide shall be provided also and shall include trees and shrubs that are at least 2 feet high when planted and that may be expected to form a year-round dense screen within 3 years. The location and species of trees and shrubs used for screening shall be chosen with consideration for the size of the trees and shrubs at maturity. Fences, walls, screening, and planting strips shall be located so that they do not constitute sight obstructions for the drivers of vehicles entering or exiting the parcel or any adjacent lot or parcel.**
- (h) The fumes, odors and noise from the vehicle-related work shall be minimized.**
- (i) A minimum parcel area of 1 acre shall be required.**
- (j) In the AG District, the use shall be operated by the resident of the property."**

The uncontradicted testimony of the Applicant, the Applicant's expert witness, and Mr. McClune of the Department of Planning and Zoning, indicates that the Applicants can comply with all conditions set forth in Section 267-53(D)(1) and (3).

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In Schultz v. Pritts, 291 Md. 432 A.2d 1319, the Court said:

“Whereas, the Applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. If he shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material. If the evidence makes the question of harm or disturbance or the question of the disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the Board to decide. But if there is no probative evidence or harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a special exception use is arbitrary, capricious, and illegal.”

As indicated, the Applicant can meet the prescribed standards as set forth in Section 267-53(D)(1) and (3). No evidence was introduced that approval of the Special Exceptions on the subject parcel would have any greater impact than if approved elsewhere in zoning district, nor was any evidence introduced that the proposed use would effect the “Limitations, Guides and Standards” set forth in Section 267-9(I).


Therefore, it is the recommendation of the Hearing Examiner, that the requested Special Exceptions be approved, subject to the following conditions:

1. That the Applicants shall submit a detailed site plan to be reviewed through the Development Advisory Committee (DAC). The site plan shall reflect the existing building and proposed addition, storage yard, buffer yards, and fencing. A screening plan shall also be submitted for review and approval. The type, number of trees, and size shall be reflected on the screening plan.
2. That the hours of operation shall be limited to 8:00 a.m. to 9:00 p.m., Monday through Friday, and 8:00 a.m. to 5:00 p.m. on Saturdays, with no hours of operation on Sundays.
3. That outside storage shall be limited to vehicles and equipment awaiting repair. There shall be no outside storage of materials, parts, etc.

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4. That no more than eight (8) vehicles or pieces of equipment may be stored on the property at any one time awaiting or undergoing repair work or painting. This includes automobiles, commercial vehicles or equipment and farm vehicles and equipment. This does not include the Applicant's vehicles and equipment for his business or his farm operation.
5. That the Applicant shall maintain a log of all vehicles repaired. For each vehicle, the log shall include the vehicle identification number and a description of the vehicle and identify the dates the vehicle arrived and was removed. No vehicle shall remain on the property more than 90 days.
6. That no retain sales of automobiles, commercial vehicles or equipment or farm vehicles or equipment shall be conducted on this site.
7. That any lighting shall be directed on site and away from the road or adjoining properties.
8. That signs are not permitted for the purposed use in the Agricultural District as a principal permitted use. if the Applicant wishes to use a sign, it will require Board of Appeals approval.

Date SEPTEMBER 30, 1999



L. A. Hinderhofer
Zoning Hearing Examiner